

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

Docket No. 07-1945

IMS HEALTH INCORPORATED, a Delaware Corporation;
and VERISPAN, LLC, a Delaware Limited Liability Company

v.

KELLY A. AYOTTE, Attorney General
of the State of New Hampshire

JOINT STIPULATION REGARDING THE RECORD

Plaintiffs, IMS Health Incorporated and Verispan LLC and New Hampshire Attorney General jointly stipulate that the record in this case consists of the testimony of the witnesses offered at trial and the following exhibits:

Joint Trial Exhibits

1. Legislative History of House Bill 1346.

Plaintiff's Exhibits

<u>Trial Exhibit No.</u>	<u>Exhibit Description</u>
1.	11/09/06 Deposition of John P. Glaser with Exhibit
2.	11/09/06 Deposition of Andrew J. Cole with Exhibits
3.	11/13/06 Deposition of Göran Albert Tortensson Ando, M.D. with Exhibit
4.	11/20/06 Deposition of Jody Fisher with Exhibits

5. 11/20/06 Deposition of Hossam Sadek with Exhibits
6. 11/21/06 Deposition of August J. Dobish with Exhibits
7. 12/07/06 Deposition of Thomas Wharton, M.D.
8. 07/20/06 Declaration of Thomas P. Wharton Jr., M.D., F.A.C.C with Exhibit, which consists of Curriculum Vitae.
9. 07/27/06 Declaration of Robert J. Hunkler
10. 07/27/06 Declaration of Jody Fisher
11. 07/27/06 Declaration of Hossam Sadek
12. 07/26/06 Declaration of Göran Ando
13. 07/27/06 Declaration of Randolph B. Frankel
14. 07/27/06 Declaration of James Mahon
15. 07/27/06 Declaration of Jeremy Eggleton
16. 08/30/06 Declaration of August Dobish
17. 10/16/06 Declaration of Dr. John Glaser
18. 10/16/06 Declaration of Dr. Andrew Cole, M.D., F.R.C.P. (C.) with Exhibit which consists of Curriculum Vitae.
19. Okie, Susan, *AMA Criticized for Letting Drug Firms Pay for Ethics Campaign*, The Washington Post (Aug. 30 2001) (Exhibit 2 to Dr. Avorn's Deposition).

20. Mitzik, Natalie & Jacobson, Robert, *Are Physicians "Easy Marks"? Quantifying the Effects of Detailing and Sampling on New Prescriptions*, Management Science, Vol. 50, No. 12 (Dec. 2004) (Exhibit 3 to Dr. Avorn's Deposition).
21. "Show Me the Evidence," a project of the Canadian Academic Detailing Collaboration and Drug Policy Futures (Exhibit 4 to Dr. Avorn's Deposition).
22. Avorn M.D., Jerry *Powerful Medicines, The Benefits, Risks and Costs of Prescription Drugs*, (Exhibit 5 to Dr. Avorn's Deposition).
23. National Prescribing Service Limited,
http://www.nps.org.au/site.php?page=2&content=/resources%2Fcontent%2Fnps_whoever... (Exhibit 6 to Dr. Avorn's Deposition).
24. The Health Report, Drug Regulation and Drug Safety
<http://www.abc.go.au/rn/healthreport/stories/2006/1657545.htm>
(Exhibit 7 to Dr. Avorn's Deposition).
25. Market Watch Article: *Extensions of Intellectual Property Rights and Delayed Adoption of Generic Drugs: Effects on Medicaid Spending* by Aaron S. Kesselheim, Michael A. Fischer and Jerry Avorn, Health Affairs, Vol. 25, No. 6 (Dec. 2006) (Exhibit 1 to Kesselheim's Deposition).
26. Prozac® Fluoxetine Capsules, USP (PV 5321 DPP) (Exhibit 1 to Ahari's Deposition).
27. Zyprexa® ZYSDIS® (PV 5195 AMP) (Exhibit 2 to Ahari's Deposition).
28. The Red Book (Exhibit 3 to Ahari's Deposition).
29. IMS Health Solutions Overview
http://www.imshealth.com/ims/portal/front/indexC/o,02773,6599_43089758_0,00.html (Exhibit 2 to Sadek's Deposition).

30. Safety Information Alerts/ FDA Public Health Advisory (July 19, 2006)
<http://fda.ov/medwathc/safety/2006/safety06.htm> (Exhibit 3 to Sadek's Deposition).
31. Supporting Documentation to Hossam Sadek's Declaration (Exhibit 4 to Sadek's Deposition).
32. Articles Reviewed by Dr. Andrew Cole (Exhibit 2 to Cole's Deposition).
51. Details for large brands with expiry in 2005 or 2006 (chart used in Hossam Sadek's Deposition).
52. Generic Erosion of large brands with expiry in 2005 and 2006 [by week] (chart used in Hossam Sadek's Deposition).
53. Generic Erosion of large brands with expiry in 2005 and 2006 [by month] (chart used in Hossam Sadek's Deposition).
54. In New Hampshire for the same products, Generic erosion is similar to national rates (chart used in Hossam Sadek's Deposition).
56. Crestor® Powerpoint Presentation by Jeanne Bruno-Joyce, PharmD.
61. Evolution of Clinical Practice Guidelines, Evidence Supporting Standard Use of Medicines.
63. Shahram Ahari's Manager Exit Report from Eli Lilly & Co.
65. Research Request to IMS.

State's Exhibits

<u>Trial Exhibit No.</u>	<u>Exhibit Description</u>
A(1)	Declaration Dr. Jerry Avorn and Dr. Aaron Kesselheim.
A(2)	Okie S. <i>AMA Criticized For Letting Drug Firms Pay For Ethics Campaign</i> . Wash Post. Aug 30, 2001
A(3)	Dana J, Loewenstein G. <i>A Social Science Perspective On Gifts To Physicians From Industry</i> . JAMA 2003;290:252-255.
A(4)	Peay MY & Peay ER. <i>The Role Of Commercial Sources In Adoption Of A New Drug</i> . Soc Sci Med 1988;26(12):1183-9
A(5)	Berndt ER, Bui L, Reiley DR, Urban GL. <i>Information, Marketing, And Pricing In The US Antiulcer Drug Market</i> . Amer Econ Rev 100 1995;85:100-5
A(6)	Wazana A. <i>Physicians And The Pharmaceutical Industry: Is A Gift Ever Just A Gift?</i> JAMA 2000;283:373-80
A(7)	Peay MY & Peay ER. <i>Innovation In High Risk Drug Therapy</i> . Soc Sci Med 1994; 39(1):39-52
A(8)	Chren M-M & Landefeld CS. <i>Physicians' Behavior And Their Interactions With Drug Companies: A Controlled Study Of Physicians Who Requested Additions To A Hospital Drug Formulary</i> . JAMA 1994; 271:684-9
A(9)	Manchanda P, Honka E. <i>The Effects And Role Of Direct-To-Physician Marketing In The Pharmaceutical Industry: An Integrative Review</i> . Yale J. Health Policy Law & Ethics 2005; 5:785-8
A(10)	Avorn J, Chen M, Hartley R. <i>Scientific Versus Commercial Sources Of Influence On The Prescribing Behavior Of Physicians</i> . Am J Med. Jul 1982; 73(1):4-8

- A(11) Blumenthal D. *Doctors And Drug Companies*. NEJM 2004; 351:1885-90.
- A(12) Brennan TA, Rothman DJ, Blank L, Blumenthal D, Chimonas SC, Cohen JJ, Goldman J, Kassirer JP, Kimball H, Smelser N. *Health Industry Practices That Create Conflicts Of Interest: A Policy Proposal For Academic Medical Centers*. JAMA 2006; 295:429-33
- A(13) Windmeijer F, de Laat E, Douven R, Mot E. *Pharmaceutical Promotion And GP Prescription Behavior*. Health Econ 2006; 15:5-18
- A(14) Chew LD, O'Young TS, Hazlet TK, Bradley KA, Maynard C, Lessler DS. *A Physician Survey On Effect Of Drug Sample Availability On Physicians' Behavior*. JGIM 2000;15:478-83.
- A(15) Boltri JM, Gordon ER, Vogel RL. *Effect Of Antihypertensive Samples On PhysicianPrescribing Patterns*. Family Medicine Nov-Dec 2002; 34(10):729-31.
- A(16) Cardarelli R, Licciardone JC, Taylor LG. *A Cross-Sectional Evidence-Based Review Of Pharmaceutical Promotional Marketing Brochures And Their Underlying Studies: Is What They Tell Us Important And True?* BMC Fam Pract. 2006; 7:13.
- A(17) Fischer MA, Avorn J. *Economic Implications Of Evidence-Based Prescribing For Hypertension: Can Better Care Cost Less?* JAMA 2004; 291:1850-6.
- A(18) Kesselheim AS, Fischer MA, Avorn J. *The Rise And Fall Of Natrekor For Congestive Heart Failure: Implications For Drug Policy*. Health Affairs 2006; 25(4):1095-102
- A(19) Ziegler MG, Lew P, Singer BC. *The Accuracy Of Drug Information From Pharmaceutical Sales Representatives*. JAMA 1995; 273:1296-8.

- A(20) Avorn J & Soumerai SB. *Improving Drug-Therapy Decisions Through Educational Outreach. A Randomized Controlled Trial Of Academically Based "Detailing"* N Engl J Med 1983; 308:1457-63
- A(21) Avorn J, Soumerai SB, Everitt DE, Ross-Degnan D, Beers MH, Sherman D, Salem-Schatz SR, Fields D. *A Randomized Trial Of A Program To Reduce The Use Of Psychoactive Drugs In Nursing Homes.* N Engl J Med 1992; 327:168-73.
- B. CV Dr. Jerry Avorn.
- C. 11/27/06 deposition transcript Dr. Jerry Avorn.
- D. Declared portions of Dr. Jerry Avorn's deposition.
- E. Avorn deposition Exhibit 4, *Show Me The Evidence*, 2006.
- F. CV Dr. Aaron S. Kesselheim
- G. 11/27/06 deposition transcript Dr. Aaron S. Kesselheim.
- H. Declaration Dr. Gary A. Sobelson.
- I. CV Dr. Gary A. Sobelson.
- J. 11/16/06 Deposition transcript Dr. Gary A. Sobelson.
- K. Declared Portions of Dr. Gary A. Sobelson's Deposition.
- L. Declaration Dr. Marc Sadowsky.
- M. CV Dr. Marc Sadowsky.
- N. 12/21/06 Deposition transcript Dr. Marc Sadowsky.

- O. Declared Portions of Dr. Marc Sadowsky's Deposition.
- P. Declaration Shahram Ahari.
- Q. CV Shahram Ahari.
- R. 11/28/06 Deposition transcript Dr. Shahram Ahari.
- S. Declared portions of Shahram Ahari.
- T. No exhibit
- U. Line by line of breakdown of legislation (RSA 318:47-f).
- V. IMS Intelligence Applied.
- W. May 5, 2005 Memorandum to Democratic Members of the Government Reform Committee.

Respectfully submitted,

THE STATE OF NEW HAMPSHIRE,

by its attorneys,

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Date: _____

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Certificate of Service

July 3, 2007

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